

Senate Bill No. 412

(By Senators Foster, Kessler (Acting President), Plymale and
McCabe)

[Introduced February 3, 2011; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §50-1-4 of the Code of West Virginia,
1931, as amended, relating to increasing educational
requirements for magistrates.

Be it enacted by the Legislature of West Virginia:

That §50-1-4 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 1. COURTS AND OFFICERS.

**§50-1-4. Qualifications of magistrates; training; oath;
continuing education; time devoted to public
duties.**

Each magistrate shall be at least twenty-one years of age
~~shall have:~~ and have:

(A) A bachelor's degree from an accredited college; or

(B) An associate's degree in criminal justice from an
accredited college; or

(C) A minimum of four years of experience as a magistrate;

1 or

2 (D) A minimum of ten years of certified experience as a law
3 enforcement officer; or

4 ~~(D)~~ (E) shall have At least a high school education or its
5 equivalent for persons holding the office of magistrate on the
6 effective date of this amendment.

7 A magistrate shall not have been convicted of any felony or
8 any misdemeanor involving moral turpitude and shall reside in the
9 county of his or her election. No magistrate shall be a member of
10 the immediate family of any other magistrate in the county. In the
11 event more than one member of an immediate family ~~shall be~~ is
12 elected in a county, only the member receiving the highest number
13 of votes ~~shall be~~ is eligible to serve. For purposes of this
14 section, immediate family means the relationship of mother, father,
15 sister, brother, child or spouse. Notwithstanding the foregoing
16 provisions of this section, each person who held the office of
17 justice of the peace on November 5, 1974, and who served in or
18 performed the functions of such office for at least one year
19 immediately prior thereto ~~shall be deemed~~ is qualified to run for
20 the office of magistrate in the county of his or her residence.

21 No person shall assume the duties of magistrate unless he or
22 she ~~shall have~~ has first attended and completed a course of
23 instruction in ~~rudimentary~~ principles of law and procedure which
24 shall be given in accordance with the supervisory rules of the
25 Supreme Court of Appeals.

26 All magistrates shall be required to attend such other courses

1 of continuing educational instruction as may be required by
2 supervisory rule of the Supreme Court of Appeals. Failure to
3 attend such courses of continuing educational instruction without
4 good cause ~~shall constitute~~ constitutes neglect of duty. Such
5 courses shall be provided at least once every other year. Persons
6 attending such courses outside of the county of their residence
7 shall be reimbursed by the state for expenses actually incurred in
8 accordance with the supervisory rules of the Supreme Court of
9 Appeals.

10 Each magistrate shall, before assuming the duties of office,
11 take an oath of office to be administered by the circuit judge of
12 the county, or the chief judge thereof if there is more than one
13 judge of the circuit court. Each magistrate shall maintain the
14 qualifications for office at all times.

15 Each magistrate who serves five thousand or less in population
16 shall devote such time to his or her public duties as shall be
17 required by rule ~~or regulation~~ of the judge of the circuit court,
18 or the chief judge thereof if there is more than one judge of the
19 circuit court. Each magistrate who serves more than five thousand
20 in population shall devote full time to his or her public duties.
21 As nearly as practicable, the workload and the total number of
22 hours required shall be divided evenly among the magistrates in a
23 county by such judge.

NOTE: The purpose of this bill is to increase the educational requirements for magistrates.

Strike-throughs indicate language that would be stricken from

the present law and underscoring indicates new language that would be added.